

US EPA ARCHIVE DOCUMENT

So with that I just want to go into the presentations. Lisa Garcia will begin.

Incorporating Environmental Justice into Rulemaking

Presentation

by Lisa Garcia, EPA Environmental Justice

MS. GARCIA: Hi, thanks Charles. So this is another exciting I guess aspect of reporting back to NEJAC as Charles said on an aspect or request from NEJAC.

(Slide)

I think that through the past few days and through the testimony, it has become clear that the reports, recommendations and testimony continually remind us that environmental burdens still exist and unfortunately disproportionately throughout many communities. And I think that the goal for all of us here, and as you can see the commitment from many people across the agency, is to reduce those risk burdens and environmental burdens and bring some of the benefits to the communities.

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My colleagues and I are here today to update you on the progress in fulfilling Administrator Jackson's personal commitment to change the way EPA develops, implements, and enforces our regulations.

One, to make sure that disproportionate impacts are considered throughout the regulation development process. And

secondly that people who are potentially most affected by our rules are meaningfully engaged in our decision-making process.

And equally important is for us to begin that process of obtaining public input and further development of this important initiative. And so that is why we are announcing it here for the first time. This is the first time that EPA is rolling out the draft rulemaking ideas.

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The importance of rulemaking; rulemaking is viewed by many as an important tool for fulfilling our mission to protect human health and the environment. Congress has authorized EPA and directed EPA to establish binding enforceable standards on industry, governments, and individuals. And EPA also uses other tools to help achieve their goals such as research, education, information, and voluntary stewardship to name a few. But developing, implementing, and enforcing our regulations represent the core of our work and so coming out with this rulemaking initiative and incorporating environmental justice is very important.

I guess I will just skip through in consideration of time.

(Slide)

But what EPA did was they established incorporating disproportionate impacts in environmental justice considerations in regulatory development.

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The goal is to institutionalize this effort to fully and permanently integrate it in a new way of thinking into every fabric of EPA's regulation development business process to ensure that our rule writers and decision-makers routinely are made aware of and take into account the impacts of our rules on the people suffering the greatest burdens. And to establish an ethic of continuous improvement to expand our technical and scientific capabilities to identify, quantify, and address disproportionate impacts.

I am going to introduce the people who actually did most of the work along with the workgroup. And for me it has been really great working on this and realizing the amount of effort and progress that has been made since it was last announced in June.

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So on behalf of Administration Jackson, I am happy to announce the substantial progress. And I will introduce the folks who will be talking to you more in-depth about this.

Jim Jones is the Deputy Assistant Administrator for EPA's Office of Prevention, Pesticides, and Toxic Substances who volunteered to lead this initiative and he will describe our greater than expected progress in developing EJ guidance for all stages.

And Charles Lee, everyone knows Charles Lee, the

Director of EPA's Office of Environmental Justice. He is going to describe EPA's effort to build a strong science foundation for EPA's EJ program and how that will relate to the agency efforts to incorporate EJ in rulemaking.

And Bob Verchick who is the Deputy Associate Administrator for EPA's Office of Policy, Economics, and Innovation and he will discuss EPA's commitment to transparency in its rulemaking process and steps the agency is taking to foster public access.

So I will hand it over but once again thank you very much for giving us this opportunity to present to you, I think, this exciting aspect of EJ and rulemaking.

Presentation

by James (Jim) Jones, EPA OPPTS

MR. JONES: Thanks Lisa, I appreciate that. I also wanted to recognize that Rob Brenner is a very active leader in this activity as well and there are probably a dozen people around the room here today who really are the workhorses in this effort. Every office in EPA participated and our regional offices were very active in this activity as well.

As Lisa mentioned, we really have a strategic opportunity right now for integrating the consideration of disproportionate impacts in environmental justice in our rulemaking processes.

For those of you who watch EPA pretty closely, you

know the rulemaking is really one of the core activities that we do at the agency. It certainly not the only activity, but it is one of the core activities. And if we are going to be effective at managing environmental justice and disproportionate impacts in environmental protection, we have to begin to do it through the core of our work and rulemaking is certainly part of that.

If we just rely on integrating environmental justice in implementation phases, which is very important and the agency is going to be working on that as well, you leave more work left to be addressed. If you begin to approach it from the rulemaking stage, you begin to minimize what is left to be managed through implementation, enforcement, and other areas. So although it is not the only part of this integration that we need to do, it is a very important step and I think we have the framework here beginning to move and enough time actually to do that institutionalization.

(Slide)

So what exactly are we doing? We gave you a little bit of a preview of this last summer when you met in Washington; two basic activities. One is to give guidance to the people who write rules in the agency as well as decision makers about how to think about and when to think about disproportionate impact in environmental justice throughout the process from the very beginning to the end of that

process.

The second activity that Charles is going to talk more about is to give the people who write the rules the analytical tools to help them understand and figure out how to do the analysis necessary to effectively, adequately, and meaningfully evaluate environmental justice in our rulemaking.

So the first part is what I am largely going to spend my time this morning talking about.

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We are focusing on three basic questions; what, who and when. And the "what" relates to what questions to ask during the process? We want to make sure that our rule writers are asking questions related to disproportionate impacts in environmental justice. "Who" needs to be engaged in the process? This is not just about doing a good analysis; it is about engaging interested and affected communities and others who are historically not as engaged probably because the agency has not sought them out in our process. And "when" should the questions be asked in the process? If you ask them just at the beginning but not at the end, it is just a paper exercise. If you are just asking the questions at the end, you are going to do a lot of rework because you are going to have to go back to the beginning to start doing the kind of analysis.

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Again what Charles will get a little bit more into is the technical guidance that relates to how. How to do the assessments related to -- getting a better understanding of disproportionate impact in environmental justice in our analysis. A better understanding that we are talking about ranges here and not just single point estimates. And how to address data gaps that can prevent us from knowing as much as we would like to know. More of the sort of the technical analysis of how to do DIEJ analysis.

(Slide)

So where are we to date? We have made a lot of progress. In December we completed a draft of this guidance. We have briefed the senior management within the agency. We have brief Administrator Jackson. We are incorporating the internal comments that we have gotten so far. We hope to, after hearing your advice here today and finishing our internal comment review process, we plan to begin implementing this in the spring of this year. We will spend the year learning about how the guidance is working; where it is working and where it is not working, what are the strengths and what are the weaknesses, make some revisions, and we hope by the end of this calendar year we will be able to finalize this guidance.

(Slide)

The technical work; again Charles is going to get a

little more into this so I will not talk too much about it. It is just beginning to coalesce. We have an agency-wide workgroup and in the month of March we are going to have a symposium that will be sort of a more public kick-off of this activity to help get our arms around technically how can we help our analysts and rule writers do a really good job of evaluating environmental justice and disproportionate impact in their analysis.

Okay, so a lot of process talk so far. What is it? What exactly is it we are doing in this guidance? And I believe you all have this two pager that is a summary of what I am going to go over here and I think that is in your package but if not, that is pretty much what I am going to go over.

(Slide)

So the agency's rulemaking process; you are probably most familiar with the last two steps which is when we have proposed the rule and then when we finalize the rule but a lot goes on before that basically in the agency's efforts to figure out what to propose. And at each step of the way this guidance helps the rule writer, the analyst, and decision makers think about how to evaluate disproportionate impact in environmental justice and I will talk about the kinds of questions that we are asking be considered throughout that process.

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Commencing the activity; that is basically when the agency decides we are going to do a rulemaking in this area whether it be air, water, waste, chemicals, or pesticides. We begin the action and the first question we are going to ask our rule writers to give consideration to is does that regulation have potential to impact the human health or environmental conditions of minority, low-income, tribal, or other populations?

Does the regulation present opportunities to address existing or create new disproportionate environmental justice impacts?

Does the regulation provide information helpful to EJ analyses in populations?

Now you might say as the skeptics among us including those of us at the agency, well what if you just answer no, do you think you are done? Well later in the process we have enough transparency so that if we answer that question no, and that is not out of the question, there are some rules that we do for which you would answer that first question no, in the proposed rule you describe that you have asked the question, here is how you answered it, and here is how you came to that answer to bring some transparency to get some feedback around that.

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So now we are initiating the rule. We have done

some initial thinking about is there the potential for there to be a disparate impact or for us to correct one. Now we are going to help the workgroup figure out basically two things; what analysis are we going to do as an agency to understand that disparate impact or environmental justice issue; those are the first three questions up there. You know what kind of data do you need, what data sources are available, what is the scope of the analysis going to be, what is the methodology going to be? They will be different for -- we do a wide range of rules in the agency and there is not always going to be one kind of EJ analysis. There are going to be a whole range of different kinds of analyses depending on what is the environmental problem you are trying to address.

This is the part where the worker is going to describe to the senior manager here is how we are going to try to understand the DI or EJ effect.

The fourth and fifth questions gets to that we are going to ask that our rule writers specifically answer these questions. How are we going to do outreach to get input from groups that may be affected who are historically not -- we have not done outreach to, who have not historically been able to participate in our process and specifically identify them and the steps that you are going to take to do that outreach.

So in analyzing the problem it is both sort of how analytically are we going to do it and then how are we going

to do outreach.

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So you are now at the point in the process where the group is teeing up options for decision makers and at that point we are going to ask that the workgroup talk about, in that dialogue with decision makers as they are trying to figure out which option to go with, how did the work we just talked about impact, influence the analysis that was done and ultimately how the decision maker factors that into their decision making when they are selecting an option.

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So in the next step of the process where we are issuing the proposed rule, this is where the transparency now begins to come into play. All of those questions we have asked in the first three steps we are now going to make clear how we dealt with them in the proposal.

Here is how we determined that there might be an environmental justice impact. We then did this kind of analysis to see if we could get our arms around it. We did this kind of outreach to make sure that we were talking to people who are affected potentially in a disparate way. And then here is how all of that analysis fit into the option that we picked. And there will be that level of transparency in here is how we thought about it and here is how it impacted our proposal.

(Slide)

So now you are going into the last phase of the process where you are reviewing the comments that you got and you are going to finalize the rule. And again in many ways this is a little bit of a repeat of the last step but do we need to refine any of these assessments we did based on what we learned in the comment period. Did commenters raise issues that we just had not thought about? So more of the classic kinds of things that you do when you are responding to comments but here it is specific about the DIEJ aspect of it. And then again we will follow the proposal process in finalizing.

So if any of the things we learned from the comment process impact how we analyzed or thought about the disparate impact-environmental justice issues, we are going to be transparent about that in finalizing the rule.

So all of these steps are articulated -- hopefully you have this two-pager that pretty clearly lays out at what step we are going to be asking what kinds of questions. And that has been articulated in this draft guidance document and one of the things we will be talking about later on is basically do you think we are asking the right questions at the right time.

But before we get to that I am going to turn it over to Charles who is going to talk about Part 2, the analytical

work that we are going to be undertaking.

Presentation

by Charles Lee, EPA Office of Environmental Justice

MR. LEE: We apologize, the two-pager, the overview, is on its way down.

(Slide)

So let me just talk about our efforts to build a strong science foundation for regulatory analysis, in particular here, rulemaking.

Administrator Jackson -- and I want to talk about this in terms of not just the science but also how the science links to decision making. Administrator Jackson, when she took over the helm of EPA put forward three principles that science must be the backbone of EPA programs, secondly that EPA must follow the rule of law, and an important part of this that we are not going to go into detail about is the work that Scott Fulton, the EPA General Council talked about yesterday in terms of integrating environmental justice into EPA statutory authorities. And the third is the area of transparency which Rob Verchick will talk about in more detail.

I think in the long term we see these as critical to our efforts to build an environmental justice program that can consistently answer the questions which are on your slides in a consistent way and as part of an evidence-based process.

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In 2007 the Office of Environmental Justice, in response to many questions around environmental justice and rulemaking, identified six factors that can represent conditions which are associated with disproportionate impacts, increased vulnerability, or adverse health effects. And these tend to be prevalent around minority, low-income, tribal, and other vulnerable populations.

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The six of them are in proximity to environmental hazards, susceptible populations, unique exposure pathways, multiple cumulative impacts, the diminished ability to participate in decision making, and physical infrastructure. In our process of doing this work, another area came forth from many of the scientific community that we engaged and that had to do with chronic community stress which we know we hear about all the time when we go out to the communities.

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OEJ has commissioned scientific papers around these and these will be ready pretty soon, particularly in preparation for the upcoming symposium on disproportionate impacts - science and decision making. That will, as it was mentioned, take place in Washington, D.C. on March 17 through 19.

A number of key questions that the symposium is

structured to address have to do with of course looking at the factors themselves. Are these the right ones, how do they work with each other, how are they measured, and what kinds of methods of analysis exist or need to be developed?

The second is there are two types of sessions linking the science to decision-making frameworks for risk assessment and incorporating EJ in the EPA statutory authorities.

There are other decision-making frameworks such as health impact assessments that are also going to be addressed and therefore these will become very critical, as Jim said, to developing our technical abilities to do environmental justice analysis for rulemaking.

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The expected outcomes of the symposium are four. One has to do with the state of the science papers. The second is an overview of analytical methods and frameworks. And then a little short-term/long-term agenda for doing research and development of analytical methods. And lastly we want to develop a network out of this of scientists, policy makers, and community practitioners in this area.

I should note that the symposium is sponsored by the Office of Environmental Justice, the Office of Children's Health, the Office of Research and Development at EPA as well as the National Institute for Environmental Health Sciences,

the Centers for Disease Control, and we are very excited about the fact that the American Public Health Association is a co-sponsor and the Kellogg Foundation is a co-sponsor. And these give us the ability, I think, the wherewithal to carry forward to the next steps.

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In conclusion it is really important to, like Jim said, to link this to the process of developing guidance and methods for doing EJ analysis, incorporating environmental justice into our rules; this question of how to do this. This is something that has real challenges but we wanted to go about this systematically in a way that is part of an iterative learning process.

And lastly we want to use this symposium as an important point in engaging the larger public in the development of these analyses or analytical methods. And that actually is an important element of insuring transparency in the way that we go about our rulemaking process. This is then a good segway to the next presentation by Rob Verchick on transparency efforts in the rulemaking process for EPA.

Presentation

by Robert Verchick, EPA Office of Policy, Economics, and Innovation

MR. VERCHICK: Thanks Charles. Before we close this panel I just want to mention a friend that we lost in the environmental justice community last year, Luke Cole, who many

of you know and at age 46 was a pioneer in environmental justice litigation. He was a really good friend of mine and a classmate of mine in both college and in law school. We sat next to each other in an environmental law course and he was the first person ever to teach me about environmental justice or what he called environmental poverty law in the late 1980s and the early 1990s.

I mention all of this because as you know, those of you who know him, Luke was a real believer in the power of people especially when armed with the best information available. And that is what we are really trying to do in so many ways at EPA and in what my brief talk on the Rulemaking Gateway really is about. It is about how to get the best information that we have to the people who need it and how to make sure it is in a form that can be used.

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And so we will just hold on this slide here just for a second. This is a mock-up of a Rulemaking Gateway website that we at the Office of Policy are putting together. You are not going to be able read it, particularly those of you in the back, but it will serve as a way of giving you maybe some visual cues when this actually comes online hopefully in February; certainly in the very beginning of spring.

What this gateway attempts to do is to create a website which gives readers basic information about the high

priority rules that we have in our pipeline. It gives them information and it also gives them some special filters that can use the information in different ways.

I am going to talk about the different types of things that you will see on our website. And I am also at the end going to say something very important and I am going to sort of move over it and direct my comments to the folks in the back here too if I can break the fourth wall because I want to talk to you a little bit about how you all can help us make this website better and there is a process for doing that.

So before we -- if we just stay on this website, I promise not to put anybody's eyes out here, I have a little bit of a marker here, but what you can see here is what I am going to show you is that you can see different words in terms of -- this word is phases, in terms of topics, and in terms of effects. And these are all going to be tabs which eventually you will be able to click.

(Slide)

In our rulemaking process we have of course different phases. As Jim noted, Jim Jones, most of you know about our proposal phase or certainly our phase when the rule comes out and you all say "okay what did this really mean and how does it affect me?" But there is a big long phase here called the pre-proposal phase and we are going to be able to

give you information about rules that are still cooking, in some cases on the back burner. A lot of the information available on this site is information that is already available somewhere in the public domain but you need a black-belt in IT, in information technology, to understand where it is and how it affects you. So we are going to try to put that in some better understandable way.

There is also new information that does not exist that we are creating right now. Information like who might be affected by these rules that are on the back burner. What sorts of governments, whether it is tribal governments, state governments, local governments might have a stakeholder interest in these ideas on the back burner. And we are going to try to answer these questions, characterize or describe if you will, these new ideas for rules and put that information on this gateway so that you can identify it in an easier way.

Let me just mention something about the phases very quickly. In the pre-proposal stage, one of the things that you will be able to see if you were to click this later on when it is up online, is you will be able to see what sorts of rules we have related to topic and you will also be able to see those rules that come on, as I say, to the back burner monthly. Right now you can find this information but it comes out every six months or maybe once a year and you do not know where it is. But you will know to go to this site and you

will be able to find it.

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One way you might be interested in looking at rules is in terms of how they relate to the categories of statutes that we currently have; so air, waste, pesticides, water and so on. This is a very easy way where you could click a button and say I want to know what you all are thinking of on pesticides in terms of pre-proposal, what is proposed, and so on. If you were to do that, you could instantly, when you looked at the proposal stage, you could see what is open for public comment relating to pesticides, you could see what is open in public hearings to talk about. And so if you were interested in getting someone in your network at a public hearing, you could say okay what are the public hearings; there is one in Dallas, there is one in San Francisco, and so on and you could figure out who among your group might be able to make it to that meeting and what it is that they might be able to say. So these are pretty powerful tools.

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This is one of the more interesting ones for the environmental justice community. What we are doing in the pre-proposal stage is we are beginning to inventory the ideas of the rules that we have and ask questions like, who are the people who have high stakes? And so we have a list here.

There are some rules that we know are going to

affect children's health and going to be of interest to child advocates. We know that there are some that are going to relate to environment justice either because they relate to vulnerable populations, racial minorities, low-income folks, and so on. Over here we have small government, tribal government, state government, so this is not just for EJ but there are certainly lots of issues in here on affects which you might be interested in.

And so you might be able to say just show me all the rules that have some kind of environmental justice relevance or that have some kind of tribal government relevance and you would be able to see in all three phases the rules that we think have this kind of relevance.

Now we have this site up right now. I cannot get you on it yet because it is just an experiment until it comes online very shortly but right now we have about somewhere around 90 rules on our website, either pre-proposal, proposed, at that stage. And among those 90 I would say we probably have 20 to 25 rules that we have already flagged as relevant to environmental justice whether it is on the back burner or on the front burner. And so when this comes online, you can follow that. And new ones will keep popping up.

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This is kind of a way where you can mash up the data that we provide in different ways. It is a search engine

where you can put in key words, but note what you could do. If you were just interested in rules that are in the pre-proposal stage that have to do with pesticides, that have to do with children's health or environmental justice, you could click those boxes and get a customized list that you could continue to follow.

So if you were interested in -- oh well let's look at drinking water. Are there chemicals in drinking water that we are thinking about regulating that might have something to do with children's health or it might have something to do with the minority community or whatever, you could click these things in and get this sort of information in a customized way.

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This is what we call "Alerts." Those of you who are black-belts in IT know this is RSS feeds but what this means is you could actually program into this gateway information about you and what you are interested in so the website will email you alerts as they become available.

Now right now we only have a short list of what these alerts might look like. There are some that say, you know, give me information every time there is a new rule that is added to the gateway. Give me information every time there is a comment period that opens up on a rule. Those things are pretty broad.

But you might think, those of you behind me and those of you in front of me, you might think that there are different kinds of feeds you would like to have. It might be possible, right, technically, for us to create RSS feeds only about environmental justice or only about tribes. So you could say, you know, EPA, don't email me everything that you have every day but email everything that comes over the transom that has to do with tribal rights or that has to do with environmental justice and so on.

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As I mentioned before, this is a slide that would show you the public meetings if you were interested.

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This would show you, and this is hard to see, I know, for those in the back but if you were to click a particular rule that was on the list and we have just put in placeholders here because I cannot show you yet what the rules are but they will be online soon, but this would show you all the information you would need about a particular rule, its docket number, the stage that it is in and so on. And down here, there would be information on the potential effects so you could say, oh who might it affect; is it children, is it tribes, is it small governments, or whatever. Here you could see opportunities to participate in that rulemaking process.

Here is something that is very interesting to us

that might not be interesting to you without a little inside baseball, okay. This says Interagency Review. One of the things that we do in the Policy Office when we track rules is we are in charge of creating dialogue with the Office of Management and Budget at the White House and that is through a process of interagency review.

And so if you were interested in knowing what communications are taking place between EPA and the Office of Management and Budget about a rule that you are concerned about, you could dial this in and you would automatically see the official record of information that is going back and forth between EPA and the Office of Management and Budget or between EPA and any of the other agencies that you are interested in in this collaborative era of environmental justice and rulemaking.

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The last thing that I want you to see that is extremely important in the next six months after this website comes online is the Discussion Forum. This is a forum for us selfishly to get information from you. When this gateway goes online, what we hope is that those of you who begin to use it and look at it will go into the discussion forum and tell us what you think about it. Is it helpful, is it not helpful, is it easy to understand, does it send you on wild goose chases, are there kinds of RSS alert feeds that you would rather have

that we are not providing, is there information that you think is somewhere in the governmental realm open to the public that is not on this website?

This is very tricky for us because we are acting like librarians. We have rooms and rooms, metaphorically, full of data and we are trying to figure out what it is that we can supply most easily and what it is that you want and can use. And we are making a lot of educated guesses. We have a lot of information about what we think is useful but you have more information than we do. And so if you can make messages or comments in this discussion group, then we can help better serve the people that this gateway is existing for.

And so I would just encourage you -- again what I like to say is when the crocuses start popping up in some parts of the country, this gateway will be online and I encourage you to look for it and to give it a test drive and to let us know what you think about it because our goal is to make this as transparent as we can in a rulemaking process that has lots and lots of steps to it. Thanks.

Questions and Answers

MS. YEAMPIERRE: Thank you. Your presentations are an example of all of the work and all of the thoughtfulness that is going into trying to address so many problems in our communities. I am certain that the members of the NEJAC have some questions and I am going to start with just a few

comments.

One is, you know, one of the things that you talked about was how you were going to address disproportionate environmental and public health impacts in vulnerable communities. And one of the things that we have been saying from the beginning of this NEJAC and asked in preparation for this NEJAC was that a number of agencies be available, that the work be done in a way that was interagency, and that that collaboration be real and that we have an opportunity to hear from other agencies in terms of how you are actually working with them.

So for example, Gina you mentioned that the conference was great but DOT was not there. And everyone mentioned the fact that we were talking about goods movement but DOT was not there. And transportation is such a critical issue when you are talking about environmental justice in our communities where we have highways dividing our communities, and we have trucks idling and queuing up in our neighborhoods. So our communities are the hosts for all of that goods movement so they should have been there.

And so when you are talking also about public health and the science, we would need to hear what the role of OMB is, HHS, ATSDR, and the National Academy of Science because they are critical in advancing the science.

The public health issues are just going to get worse

with climate change and so your work becomes so much more difficult if these folks are not working with you and are not advising us how they are integrating environmental justice in their work as well.

And so for the next NEJAC we would hope that they would be here and we would hope that in your presentations you can inform us how you are working with these agencies to advance environmental justice.

Mathy you had raised the issue of brownfield remediation action plans and yesterday a number of people were talking about land use and zoning. And so I wanted to know if you could comment on the role of community-based planning because we think that -- and it was also brought up within the context of sustainability. We want to know how community-based planning could be integrated into that kind of process because we really think that that is the place where you bring communities together with a variety of stakeholders to not just address remediation but also planning for smart growth and to prevent displacement in our communities.

MR. STANISLAUS: Sure, as I clarified recently, we are going to make available site-assessment resources for area-wide planning. And I am a big believer in area-wide planning and have spent a lot of my life really kind of advancing that.

My view is that particularly EJ communities and

lower-income communities have a history of disinvestment. You are not going to revitalize those communities through the redevelopment of brownfield sites without looking at the surrounding conditions, without looking at dilapidated infrastructure, without looking at basic things like illegal dumping, and the issues of enforcement. So we are going to advance that fairly soon. We will kind of move forward on implementing this area-wide planning scheme so you should look for that very soon.

And very generally with the spread of the community engagement initiative, the area-wide planning, and other things we really kind of want to advance more place-based work where community leadership is brought in to the table and really play a lead role in the decision making.

MS. YEAMPIERRE: Thank you, if that happens that would really be a departure in the way that this work has been done historically and would really be more meaningful in terms of what resources are coming into the community and the role that we can play in that process. I am going to move on to Jolene.

MS. CATRON: Good morning. I just have a couple of quick questions. Number one, I think the crocus bloom in Wyoming in June or something. So I am just curious as to how you are going to get the word out about this availability; if you are going to use like the EJ ListServe or something like

that. That is probably a more reliable form of communication.

MR. VERCHICK: Yes the crocuses are already up here. What I have been told by my staff is that this should be out by the end of February or early March. And I do not yet know what their plans are for getting the word out but I would be interested in maybe out in the hall of getting some information about who you think we should be contacting to do that.

MS. CATRON: Yes, so that is the other part of the question I have, which is how you go about contacting who you think are impacted communities and how is that determined and how do you contact them? Is it through federal register or is it through -- that is my question.

MR. VERCHICK: Generally speaking the type of descriptions that we are assigning to these rules are general in the sense that the questions that prompt the discussion are questions like, would this rule be of relevance to racial minorities, would this rule be of relevance to Indian tribes or to children? So those are very broad and when we get the message out about the gateway, we are going to use again sort of a broad brush in thinking about what groups would be most interested in knowing about the gateway and obviously trying to be as broad as possible in reaching people.

Your comment suggests or raises what is an interesting question, that is, if there were particular

communities that we knew of that this rule might affect, would there be some way for us to notify particular communities about this and I do not have the answer to that. I think it is an interesting question that would be interesting to discuss.

MR. LEE: Maybe Jim did you want to talk about that because that is a very important part of the guidance.

MR. JONES: The question about a particular rule in how we figure out how to do outreach, you know, what community might be interested in the particular matter in front of us. What the guidance document does is gives advice about places to go for helping you figure that out. Talk to your EJ coordinators, talk to the regions where they are going to be closer to the ground, talk to our state partners to help figure out are there specific places, specific communities that may be disparately impacted or affected by that activity. And then literally, once you have figured that out, it is calling them up.

MS. BRIGGUM: Thank you. This is really impressive. A lot of people in the NEJAC have been talking about incorporating environmental justice into rulemaking for a long time and this is in many ways a bolder effort than we had expected, so congratulations for that.

It seems to me that several things are particularly well done. I will assume from what Charles mentioned briefly

about the science that in terms of identifying disparate impact, there is a lot of great science out there and it is relatively easy to do in terms of the methodology that Paul and others have worked on so you will have that. The transparency is very impressive too. EPA's website is really hard to figure out how to maneuver throughout and I really think that this will be very helpful to just about everybody in the United States in terms of understanding what is going on.

I guess I have one additional question though about what will happen when you do the EJ analysis? Because I see that you are really reaching out to make sure that there will be more opportunities for communities to comment and be part of the process but I wonder if there are kind of some overarching environmental justice principles for what you do with the comments when you get them. Because I hear it in the public listening sessions and others that it is not just disparate impact but it is adverse.

And almost everything that Elizabeth mentioned in the beginning kind of went to the things that happen in communities that EPA arguably or really does have the authority to cure and have not done enough yet; things that are not subject to stringent regulatory programs. So what I am wondering is, will you have a principle when you look at the outreach that you solicit that says is this rulemaking

going to make emissions less, ground water more protected, soil more protected, better enforcement, better access of the community to the process or will it take away protections?

And the reason why I really care about this is that I have noticed a really surprising trend for an old lady like myself, I have been doing this forever, and there is a lot of deregulation out there now. If you hang the word sustainability or recycling or inerts or whatever on to an activity, it seems like it is fair game to just go back to the old process where you just hope they do a good job and if they don't well maybe we will do another Superfund to fix it.

And I think this is a wonderful opportunity and you have clearly got the horsepower to make that happen. So I wonder if in your discussions you are thinking about that way that you can use this to make sure the rulemaking process is taking more things in where protecting is needed and assuring the protection keeps getting better rather than lapses.

MR. JONES: That is a very good question and I have to say that from my perspective I have always thought of the activity as being involved in increasing environmental protection. At the end of the day, it is the statute will govern and there is always some flexibility for decision makers in terms of how they are going to ultimately make choices but I think it is a point that we ought to give some internal thought to.

Again, I think that the group that has been working on this -- this has all been about how to help improve environmental protection and keep that ball moving in that direction. But as you talked about it, I was thinking about well there are scenarios where a decision maker could, no matter how much you have analyzed it and done outreach, if the statute gave them that flexibility you may see the kind of outcome you were describing but it was certainly not where this group was thinking as it thought through it; so I think it is something worth giving some thought internally to.

MS. YEAMPIERRE: Thank you. I just want to remind the NEJAC members that part of our charge is to ask what we think of the approach. Whether we have any recommendations to refine or revise their approach. Whether we would like to be engaged in this process and if so, what is the best way to obtain feedback and secure involvement from the NEJAC on these issues, and what issues should EPA's rulemaking process consider in order to address the localized environmental and public health impacts overburdened communities are concerned about.

MS. HENNEKE: Thank you and to go along with Jolene, in central Texas we are not real reliable on crocuses because it does not get quite cold enough there, although the next couple of days are suppose to prove me wrong on that; we are much better on Blue Bonnets; so if you can figure that in, it

would be helpful.

And this is somewhat of an inside baseball question because I have been over rulemaking and I have had that point in my life where, you know, I thought "Oh my God, who writes this stuff; can they please put it in common language." And I would encourage you to put that into your thought process somewhere.

But my real question is have you thought through what is your threshold for a pre-proposal? We -- to make a pre-proposal, is it when the technocrat in the corner in the cube has a twinkle in his or her eye or words captured on paper, or what is that actual point? Because often times the criticism that I have heard in that role in the past is that once you get to the proposal stage, you are done. You are dug in, you do not care what we think, et cetera and it is easy for that criticism to be accurate so have you thought through what that is going to be?

MR. VERCHICK: The answer is yes we have thought it through and it is a question I asked when we were working through this process. The short answer is we are not making available -- with the exception of the information that we are creating ourselves in terms of describing rules, we are not making available any information sooner than we otherwise do already. In other words, as I mentioned, every six months we do provide in the federal register a list of possible rules

that we are thinking about. And what we are simply doing through this website is making that information available in a more intelligible, accessible way.

But having said that, I want to be as clear as I can that our intention of putting this through the gateway is to let the public know that they can have an effect; that they can watch the pre-proposal process and start thinking about watching for the proposed or the advanced notice of proposal whenever the public comment opens up or whenever the hearing opens up.

It is a way, I would think, where the public can prepare more in terms of getting ready for the moment when we will be asking for public comment and public hearings and those things can make a difference. They do not always, and I know being through rulemaking, that there are lots of people who are vying for that microphone in terms of public comment. But those things can make a difference particularly when the people making the rules are told, from at the very highest levels, that environmental justice matters. And when they have a set of guidelines, like Jim Jones was talking about, that prompts rulemakers even when they are being rushed, even when they are bored with an issue, it prompts them to continually think about those issues. That combined with the idea of public comment, I think, can be powerful in a rulemaking process.

MR. WILSON: Good morning. I am not sure exactly where this plays into but I will classify these first as recommendations based on comments that were made by the very esteemed Peggy Shepard last night, Dr. Wilson from the University of South Carolina, Dr. Sacoby Wilson and Angela Logan from California who raised these questions because you were talking about public input and I do not think you got a chance to hear some of the comments. And of course it is a little bit reiterated to some of this earlier because they provided quite a bit of heavy information that could tie into this.

So I am going to summarize three things that were repeated and repeated and repeated over the last several days including at the Air Quality Conference in the rulemaking process, and clarify me if I am in the wrong area and in the wrong room.

One of them specifically had to do with funding equity and management parity, that that become a part of application processes from the very beginning. There is a lot of money flowing around and it is not getting to the ground so that needs to be a part of RFPs or RFAs so that colleges and universities or whoever is doing major research in these impacted communities, you don't get the money unless you are saying you are going to share it at least 50/50 with the community. There is nothing there that says that.

One of the worse things we heard last night is stimulus money, Peggy Shepard mentioned it, it does not require any relationship with the community at all, no face-to-face with the community, no sharing, not a dime and I was shocked to hear that.

The other part of that is that in order to implement addressing compliance issues there needs to be interdepartmental communication. So if somebody raises a lead issue, this is rulemaking, I think I am in the right place, if there is a lead issue in the air, it comes on the ground, and if it is on the ground it is washed into the water, that automatically if you have a lead issue, it triggers a working relationship with all the agencies. Because a lot of community people are just scratchy every part of their body trying to figure out why this commonsense thing does not work at EPA. Why they have to run from one door to the other.

If there is a complaint, and Hilton has mentioned this with the oil spill in Texas, it is air, it is water, and it is land automatically. It is just not the odors that are involved, the dairy farmers and the pork farmers in North Carolina -- Washington was talking about that. Why doesn't it trigger or why isn't it included in this, that if you have this kind of air problem and a water problem, it has a source and it should trigger all of the departments to work together. And if it goes beyond EPA, it should trigger the formal

working relationship with the United States Department of Agriculture, Department of Transportation, whomever.

And what was told to me when I first started working on NEJAC, some people discouraged me and said I am going to be wasting my time being here, they told me I was going to get chewed up and spit out. They are going to take all of your time and energy and wear your brain out and you are not going to get a damn thing done and some of these people were former NEJAC members by the way; some of them were college professors. Major college professors that said you are wasting your time doing this because this process is so chimneyed or smokestacked that you guys do not even communicate with each other until you come in here. So can you help me out?

MR. VERCHICK: I can just say a couple of things since the Policy Office oversees the rulemaking. I think that a lot of the comments that are making have a lot of credence to them. We are in an agency, like many agencies, that have lots of silos or smokestacks and we use those metaphors a lot.

As you know, the President -- or you should know that the President's message throughout the years he has been with his administration has been collaboration and I hear the term silo-busting all the time at least in my office.

It does not come naturally to our agency but when a rule is in the making, we establish a workgroup for the rule.

And let's say it is an air rule and maybe it relates to lead or something like that, we make sure in the very beginning when we have our guidance in terms of the pre-proposal stage, we put together a workgroup that has not only let's say air people, but if we think it might have implications for water or it might have implications for environmental justice or it might have implications for something else, we will try to put members of those different offices or sub-offices on the workgroup so that this workgroup which develops the rule has this kind of input. It is not a perfect system, of course, but it is one attempt to try to get people talking at an early stage.

We also have a process of interagency review so that if there are rules that affect important aspects of other agencies, that there is a process by which there can be communication among agencies. That I will tell you is not perfect either but it is something that we are building into the system. And under this administration and under Administrator Lisa Jackson, I can tell you that there is an emphasis, a feeling in any cubicle in the office, that collaboration is supposed to mean something. So I cannot tell you that we are solving all of the problems that you are correctly identifying but we know those problems are there and that we are trying.

And I am so glad that you are continuing to be on

NEJAC and that you are not saying this is a waste of your time.

MR. WILSON: Well I just wanted clarification and then I am going to stop. Somebody raised a question to me and several people raised a question to me over the last several days about whether or not we should take the problem that we are dealing with here and make a Department of Justice issue out of it so it takes it out of your hands and take it to the President's office and make it a legal thing; so it is an umbrella, so it rains down, so you do not have to squirm on it. It becomes a question of we don't have any choice. That becomes a particularly major legal rain down for the whole country but some people are interested in putting that position together to take it out of the hands of this agency and out of the hands of all agencies and make a major class-action suit to make government agencies -- this is the United States of America and it is shameful that that level of cooperation does not exist automatically in things.

MR. STANISLAUS: Could I just -- I have to ask Omega that you keep asking that question and the fact is that silos exist and we are working -- Gina and I talk all the time, Peter and I. The AA's, the senior leadership, talk about environmental justice all the time but you need to hold us accountable frankly. You know so we are committing to integrate EJ to the greatest extent possible and consciously

breakdown -- we approach, I approach the government as having built up along silos and we have to consciously deal with that every day and we are doing that.

Separately, the Administrator has made this -- she clearly talks about a one EPA and we all take that seriously and we are going to operationalize that. She also talks about resetting the relationship with states. A part of that resetting is working with states about -- a lot of our programs are delegated programs so we have to -- and it is fair to ask EPA to how we are going to implement EJ when you have a state programs delegated. So we are committed to move forward on breaking this down and operationalizing EJ in a real way. I don't know whether others want to talk about that.

MS. YEAMPIERRE: Yesterday Michelle Roberts called for a systems change and it is language that came out of Copenhagen. And Diane Takvorian eloquently talked about how we have to holistically approach these problems because they do not happen in silos in our community. And so it sounds like you are moving in that direction so we will keep your feet to the fire.

MR. BRENNER: I just want to give one more response to Omega which is the power of this concept that we are moving towards where in each rulemaking we are not only going to consider whether environmental justice impacts are involved

and how we are going to address them, but we are going to write that up. You are going to see it in the preamble to the rule what we think is going on there and how we tried to address it which is I think one of the things that is going to make it worth your while to be and hopefully continue to be a part of this process. Because you get a chance to react to that and either tell us yes, you get it and you have coordinated across the agency and where appropriate you are coordinating with other agencies or you are just missing it here, you are not capturing a set of impacts that really need to be addressed. And I think that is going to be one of the most meaningful parts of this new process; the opportunity to do that and really be able to examine our thinking in these areas.

MS. FISHER: Thank you for working on this rulemaking and making some changes. I have a question and a suggestion. I think it was Robert, you said that you were going to reach out to different groups and I guess you are going to use the EPA ListServe or groups that you felt would be interested in it, but what none of us know is who is interested in what. And generally you don't have an interest in something until it is at your backdoor. So I would suggest possibly using social networking sites. There are a lot of people that do not necessarily want to be involved with a mainstream group or a community-based group; they are just one

individual that has an idea and the ability to text. And with that, I am wondering when you have these public meetings, will people be able to immediately send in their responses to the some of the comments; that is the question. Then I have another question too.

MS. YEAMPIERRE: Can I ask the NEJAC members to identify yourselves for EPA, you know, your name and your organization because I do not think they know.

MS. FISHER: Wynecta Fisher, City of New Orleans, I am with the Mayor's Office of Environmental Affairs. The other thing is I ask that when you are in the process of redeveloping or changing some rules, a major issue with anything dealing with environmental justice, in my opinion, is the risk assessment numbers.

Risk assessment, I do not know how often we are looking at the numbers. I do not know how often those numbers are revisited to see if they need to be changed. But that is a rub and I would ask that you work with different community groups that do sampling and get on the same page with what is risk.

And I also ask that when we are developing numbers for risk, that we look at the multiple stressors, the multiple environmental stressors because I do not think that that is being considered.

And then we also look at the fact -- actually Jane

someone from your office yesterday did a wonderful presentation, so how do those chemicals play into, you know, if you already have a compromised body based on these chemicals and that Act has not been changed since way back when, how does that play into risk as well so I ask that you look at that.

And then I had a question for Mathy too. You mentioned site-assessment resources. And I imagine that is through the Brownfield's Program. And the Brownfield's Program is a wonderful program and the city actually has a really good Brownfield's Program but the concern that I have is that Brownfields is a voluntary program. So while I might have dollars to assess an illegal dumping site, if the property owner will not sign that access agreement to allow me on that site, that problem can remain a problem. It is a difficult way to address it. Is there any way that we can take sites that have multiple problems and maybe circumvent that voluntary access agreement because it is in the greater good of the public?

And then my final one is that a lot of municipalities were at one time operators of, at that time, illegal sites. For example, incineration was approved; incineration was a way to dispose of waste. However, we have money, these incinerators sit in the middle of people's neighborhoods, but because we are the polluter we cannot use

the money because we are the polluter. But when we operated it, it was legal.

MR. STANISLAUS: I don't know where to start with your very simple questions. So clearly I am sure Cynthia would want to talk about kind of the enforcement issue but I know that the issue of clarifying municipal liability is being discussed, being discussed on the Hill, to deal with kind of the historic role of municipalities which are sometimes passive but then result in disqualifying municipalities for funding. So I can tell you it is an issue that is being discussed; I cannot tell you there is a resolution of that. But I know that there is existing guidance that clarifies municipality to some extent with respect to liability and so there are some conversations both on the Hill and internally about how we can deal with them with the real-world facts. And so a number of Mayors have brought that up to our attention.

In terms of the issue of multiple properties, the area-wide planning is intended to begin getting into that issue. Because at the end of the day to revitalize areas with multiple Brownfield sites, you have to look at the entire area and the interdependency of uses of that and how do you come up with more of a holistic kind of solution.

I cannot tell you that I have an answer to the access question; before I joined EPA it was a tough question.

Access is driven by local property law and state law, and I know you do not want to hear that but I am not sure -- and we could take a look at it but I am not sure what we can do to deal with the issue. You know a property owner has certain rights and I know there is some state and local ability to circumvent that but you know we could have a further conversation but nothing really comes to my mind.

And I know Rob wants to address the other question, I forget which question it was, but you raise a good point about how do we know what the issues are and then translate it and not knowing until it is too late.

One of the reasons that the Administrator has set forth the expansion of environmentalism is to get feedback from people who do not historically call themselves environmentalists; social services organizations, community development organizations; they deal with environmental issues all the time. So one of the intentions of Administrator Jackson is to widen the net and solicit the input so that we do not run into the problem of identifying -- that people will not really realize that a rule affects them until too late in the process. So we are actually interested in your input but how do we expand our outreach to bring in folks who may not consider themselves environmentalists and environmental justice advocates but run into issues that are an impediment to the delivery of local services.

MR. VERCHICK: Just a brief comment. One of the Administrator's priorities is expanding the conversation about the environment and you will be pleased to learn, I hope, that we are working on revamping the entire website for the EPA and I have seen some proposals on it and that is going to be a major effort. It is going to contain the latest thinking on social networking including some of the things that you have mentioned.

In terms of being able to comment on a rule when public comments are available, that is going to include and to some degree it already exists, the ability really to just once you hit comment, once you hit a prompt that says you want to comment, you will be able to type just like an email or upload a document you have already prepared on your computer and to send that as a comment. So those things, I think, are going to make this conversation a lot more open and that certainly we need your help in thinking about ways to do that.

MS. FISHER: And if I could just quickly follow-up, what about the risk-assessment piece?

MR. JONES: You raise a very good point about -- it is a combination I think about the complexity of the assessments and that gets back to I think Jody's point of helping to translate it so that people who do not work at EPA who have not spent their career being an expert in that area can understand what those assessments mean; I think that is

part of it. And I think that part of it is having more of a common understanding because I think sometimes we are sort of really are talking about different things even if we are using easy to understand language and having more a dialogue to get more on the same page as it relates to assessment.

We are seriously trying to get our arms around the multiple stressor issue and that is one of the areas that is front and center in the analytical part that Charles talked about as we bring together people about how do we evaluate whether or not there are environmental justice issues or disparate impacts; how do you take into consideration the multiple stressors issue, so that is very high on the agenda.

MS. FISHER: Thank you.

MS. YEAMPIERRE: Sorry I just want to point out that we have about ten minutes left and I have about six people on the list. Just quickly, briefly, is the site going to be multilingual?

MR. VERCHICK: Yes.

MS. YEAMPIERRE: Thank you.

MR. RIDGWAY: Good morning, I am John Ridgway with the Department of Ecology in Washington State. A couple of quick points and then I will follow with a brief question.

First of all, this is great. I like the website concept. I wish you good luck with it; I think it will make the access to your thinking and the rules easier to

understand.

If this is successful, I would certainly encourage that you share this with the other federal agencies so that they can do the same thing. It would be nice to see that in a relationship and this gets to our conversations around interagency coordination on EJ.

Another point is to the PowerPoints, I would ask that they be posted on our NEJAC website as soon as possible so that the members that are here and the people who will be hearing this on POD casting and otherwise will know where they can see this right away.

The question that I have -- actually another point. To the conference that you have said is going to happen, the symposium in March, I would ask that for our council if somebody could be there who is going to be nearby Washington, D.C. to observe that, that would help us better understand that dynamic and we can talk about that later.

The question I have is what is the role, and this is mostly for you Jim I think, in this whole process for the regions and engaging with the regions so that they understand what you are doing, that they can help market this access, that they can help share with the state governments and the local governments, and that is the hat I am wearing here at NEJAC, that they will be able to also see this, engage in this, work with their communities to help figure out how it is

going to impact those communities and/or local governments. If you could answer that, I would appreciate it. Thanks.

MR. JONES: Thanks John. As Rob was describing earlier, the agency's rulemaking process not only includes all of the offices who see they have some stake in the rule, it also includes regional offices. Now that being said, I think my regional colleagues would be disappointed if I did not acknowledge that sometimes we at headquarters do not do a good enough job of helping facilitate their participation. And I think your point being that they really do need to be actively involved because they are going to bring something to the table that we are just not going to have is a very good point. I think that is something that we need to refocus our energies on.

MS. YEAMPIERRE: So, I just want to ask the NEJAC, do you want to skip your ten minute break and go to the next session? You don't want to skip? Because we have four more people on the list, actually five, five more people on the list. Can I hear what you want to do, if you want to skip the break?

MR. : --- (Off microphone)

MS. YEAMPIERRE: Five minute break, okay that is cool. All right but that means that your questions have to be brief, skip the commentary and go to the questions and then your answers are going to have to be brief also. Thank you.

MR. BARLOW: Chuck Barlow from Entergy Corporation headquartered here in New Orleans. Just a suggestion might be that you try to form a link on your website to comments that are submitted by members of the public and organizations. I know that sometimes you might have 400,000, I think I have seen that number of comments at one time, and there might be a limit to what is feasible.

But what I am thinking here is that I think that EJ communities and others could possibly find partners and partnerships in people who have like thinking on matters that they did not expect. I mean big business does not all think the same. I mean CO2 is a great issue, you have big businesses all over the place on CO2, the Greenhouse Gas Emission Regulation, so you might -- environmental justice groups and others may be able to find partners of like mind that they did not know about if they could in some way look at the comments that are submitted by others and right now that is a very difficult thing to do.

MR. MARSH: Lang Marsh from the National Policy Consensus Center, Portland State in Portland, Oregon. And in addition to the recommendations you have received so far, one of the things I like as a former drafter and approver of regulations is that this is well-designed to try to avoid the unintended consequences problem that regulations have had in the past. And without embarrassing the air folks, the classic

example of that was the requirement that VOCs be burned off from various facilities creating a climate change problem. So I think that there is an opportunity here though to push that even further beyond the intermedia and cross-agency things that Omega mentioned to the full lifecycle of consequences that occur as part of a regulated activity.

And so my question is are you, as part of the science-based work that you are doing, thinking about looking at the lifecycle of regulated activities that might be subject to the proposed regulation to see if there are EJ communities that might be affected and adversely impacted by things that might be required of sources or activities that might occur farther back up the chain where the materials for dealing with the problem might be sourced or transported or farther down the chain where they might be disposed of.

MR. STANISLAUS: So let me answer part of that question. We are moving forward on a materials management kind of scheme to get away from disposal. In order to do that effectively, we have to do that on a lifecycle basis.

So one thing we are going to do, hopefully very soon, is to set forth some basis of doing good lifecycle analysis. And I want to underscore good lifecycle analysis because there are a lot of terrible lifecycle analyses out there and based on that, people are putting green labels on that.

So what is happening is that the real upstream and downstream impacts are not properly being analyzed and collected and the local community impacts at the acquisition phase, the transportation phase, the manufacturing phase, and the distribution phase are not properly collected and at least disclosed.

So one of the things that we are working on, at least from the standpoint of materials management, is to have a good regimented system of doing a good lifecycle analysis; that is the first step that at least we are taking within EPA to kind of execute that.

MR. RIDGWAY: I guess I would just ask that you consider importing that thinking into the regulatory process as part of the science-based part.

MR. JONES: Yes, that is a good point. I think that most of the offices in the agency are moving in that direction and I think your point is a very good one; bring that thinking to this analytical exercise and we will endeavor to do that.

MR. ROSENTHALL: Good morning, I am John Rosenthal with the National Small Town Alliance and I have two quick questions. The number one question; as you know rulemaking is not a very easy exercise; it is very difficult for those of you guys who are involved in it on a day-to-day basis.

So when we go out to the layperson and ask for their support and their recommendations, how do we accommodate for

their inability to really understand sometimes the substance and the process of what you are trying to do?

Now I think if you go outside and ask the man on the street what is the definition of solid waste? They will probably tell you something that is not liquid and that you are going to throw away. Now that is a very simple definition but that is not even close to any real definition; but that is a commonsense definition.

But when we start asking the laypeople about giving you comments on things that you have worked on for six to eight months and then you give them 30 days to comment, what process are we going to put in place to make sure that the layperson has the capacity to actually comprehend what you are doing and then give you a response?

And the second question is, how will you get back to the public and let them know that their comments influenced the decision or did not influence the decision? And if it did not, why didn't it influence the decision?

MR. STANISLAUS: This is absolutely something that we have a responsibility to do. So we need to think through how do we communicate beyond the fairly thick and in many cases hard to understand language of rules and break it down in a way that communities can understand.

We also need to do some additional processes and later on this afternoon I am going to have a couple of

roundtables on the definition of solid waste to really kind of break it down and have kind of stakeholder processes so we can kind of convey what we are thinking and solicit input as early as possible.

So I think it is a combination of breaking down and communicating this more effectively, but also engaging extra processes prior to rules and during the rulemaking process and having kind of stakeholder dialogue to address the question that you have raised.

MR. KELLEY: Yes, good morning everyone. My name is Hilton Kelley and I am the Director of the Community In-power & Development Association located in Port Arthur, Texas. I just have a comment and a suggestion.

First of all I would just like to make a brief comment concerning a PCB issue that we were dealing with in the Port Arthur, Texas/Southeast Texas area. And I just want to basically commend the Environmental Protection Agency for assisting Southeast Texas in stopping that shipment from Mexico -- 20,000 tons were on its way to the Port Arthur area for incineration and we had that fight going on for two years and under the Bush Administration it was well on its way but I would just like to say that I sincerely thank the Environmental Protection Agency for assisting Southeast Texas in stopping this shipment. It is something that the people did not need and I thank you on behalf of my community and the

State of Texas.

I would also like to remind everyone here that the media is very, very powerful. And I was talking to Mustafa Ali just last night concerning the use of media when it comes to getting the word out. I think it is time that the Environmental Protection Agency takes a fresh approach at attracting young people, at approaching the information age. Let's use the iPods, let's use the cell phone information age, let's use the search engine advertisement, and let's use the public service announcement opportunities that are out there when it comes to the television outlets and what have you.

I think that if we reach out to entertainers that are out there in the business -- I have worked in the business for 13 years, and we all know how fast television can get the word out. If we put together a national media campaign which talks about the new EPA, which talks about the new ways in which you can connect with the Environmental Protection Agency, I think this would be a great vehicle and a great tool.

Long before I was an environmental activist or known to the nation as an activist, I was an activist and did not really know it. But I just did not know where to go with my concerns. And if we reach out to the common man, to that one individual that is not necessarily connected to any group, I think we could get some great feedback. Because many times

people are out there on the front lines fighting for their community right to not be dumped on, fighting for their right to breathe clean air, and they just do not know where to go. But if we start a national campaign, I think we can get some great responses from our citizens out there in the United States.

DR. BROWN: Katie Brown, I am with the University of Cincinnati. A couple of comments, rhetorical comments, but it is getting at this issue of the rulemaking topics which tend to look at single media. Does that mean that rulemaking is going to continue to be single media rulemaking or will rulemaking get beyond the single media approach into multimedia?

Looking at the rulemaking affects, I wonder if that should be rulemaking impacts and wondering about how you would define the environmental justice. I mean given the perspective of this group, every rule theoretically would fall under that category. And as EPA is working now with the consistent EJ screening tool and the EJ analysis and the definition of solid waste, it sounds like you are sort of in transition in terms of how to define environmental justice communities and issues. You are setting expectations here that I can go in there -- and you know what environmental justice issues relative to rulemaking are.

And the other is getting to what Wynecta was saying

is perhaps it would also be helpful to talk about the industrial processes that might be related to the rulemaking. When I am entering this website, I am not just interested in water or air or whatever, I am coming from my community and I know this kind of industry is operating in my community, so that may be another portal that people could enter through.

MR. VERCHICK: Thanks for those comments; they are good comments and some of them are things that we are already struggling with. One of the things that is interesting to me is that when we are thinking in terms of what an environmental justice issue might be for the terms of the gateway, it is not necessarily yet using the same language, the same definitions that are being used in the guidance document that Jim is talking about or in some cases in some of the other ways that we talk about environmental justice in the agency. And that means that we need to come together in the agency and talk more about this. It is on the radar screen but it is at a nascent level right now.

What I can say is I am myself concerned that there might be issues that we flag as an environmental justice -- let's say it this way, issues that we might not flag as an environmental justice issue and that you might see as an environmental justice issue. And there may be ultimately no way completely to get around that problem but I think that there are ways and conversations that we need to have

including through this dialogue in the six months where we ask for people's opinions about things because that might lead to a discussion that might help us with this. But it is a real issue and it is really a vexing one for us.

MR. JONES: I just want to follow up on the first part of your question which is also a very good one, in that rulemaking still in these media specific arenas, that I think it is important to understand because it helps explain why we have these stovepipes. That is that you only can do a rule if there is a statute that gives you authority to issue a rule and our statutes are basically organized that way.

So if the Clean Air Act gives you authorization to do rules related to that, they will be air rules. Now hopefully those rules will take more and more consideration into the multimedia aspect of them, but it will still be a rule that has gotten its authority from the Clean Air Act or from CERCLA or from TSCA or all the other sort of very stovepipe statutes. So that is why the rules will still be coming from the perspective of Air, Water and Waste. Hopefully, though, the rules themselves however are going to have a more multimedia approach.

DR. BROWN: So you could cross-reference them on the website though.

(Nodding of heads)

MR. STANISLAUS: I might like to call on Lisa or

Cynthia to talk about this but I think you raise a very important question about raised expectations and what is the task that we are going to be implementing.

So all you have heard about today is the process of rulemaking. And so we are separately embarking on, well how does that translate into making judgments? And so there is some pre-existing language and tasks about using demographic tools and using disproportionality tools but frankly we are kind of struggling with, and we are working on, how to kind of bring more definitive tasks to that; we have not completely figured that out. But I mean it is something that I always talk about is how do we kind of be clear about the tasks that we are going to use. And so we are embarking on that in a parallel process. I don't know whether Cynthia or Lisa want to talk about the timeline for doing that?

MS. GILES: Well maybe I could just respond to the excellent points that have been raised here about what do we mean when we say that a rule is an environmental justice concern or we are doing an environmental justice screen?

We have a lot of thoughts about how to do this and we are going to be trying it in a bunch of different arenas. I don't want anyone to have the impression that we think we know the answers to these questions. What we are trying to do is figure these out and we don't want to wait to act to figure these things out so what we are planning to do is just move

out and do it in rulemaking and figure out how to do it in enforcement. And there will be inconsistencies and there will be things that we will learn as we go along.

We certainly hope that the NEJAC is going to be one of the main places that is going to be watching what we do, giving us feedback about "well you know what this works really well, you got it wrong over here" so we can learn and adapt. But what we definitely do not want to do is wait to feel like we know the answers to these very complex questions and we want to take action. So we are looking forward to I am sure quite a robust conversation in the years ahead about the things we are trying and what has worked well and what has not.

MS. GARCIA: I just wanted to add quickly to that. I think that is correct, that we just want to kind of roll this out, but the important part of this is going to be the comments that we receive back from everyone. And I think everyone has kind of been raising this issue of communication with other stakeholders, reaching out to people who speak other languages, and that is certainly an important part of how we go out and reach different stakeholders whether it is rulemaking or other things that we are doing.

And I just wanted to mention that we have already started a process of meeting with the Administrator's Office and the Office of Public Affairs to kind of address this

aspect of media technology; bringing EPA kind of into the 21st Century if you will on all of this new technology, on how everyone else is communicating and making sure that EPA starts to communicate that way.

As far as a timeline, I do not think there is I guess a flat deadline for that but we do want to roll it out as soon as possible and so I think you have a list of the questions, the two pages that went out, and so we certainly welcome comments on at least that process as we continue to work and move forward on this.

MR. LEE: I just want to reiterate what Cynthia and Lisa said. You know there are a number of questions that we had here that we really need input on and one of those would be, how do we design a process for you to be really part of the ongoing conversation as EPA moves forward in terms of rulemaking. Because your input here has been really helpful but we need to get your overall views about the approach that we are taking, what is the best way to really engage the public in a practical way? The specific kinds of questions that come up we need to identify and really solicit your comments about. So we are going to deal with this on Friday.

MS. YEAMPIERRE: Okay, thank you and we have five minutes. And thank you so much for being so thorough in your answers.

MR. LEE: Just to tee this up, those of you who were

here for the Air Conference, Gina McCarthy talked about some of the new strategies they have in terms of addressing air toxics issues and they do have a real relationship to the rulemaking process and I think without further ado I will just turn it over to Gina and Rob.

New Strategies for Reducing Air Pollution and Improving Health in EJ Communities:

Upcoming Air Rules

by Gina McCarthy, EPA Office of Air and Radiation

MS. MCCARTHY: Thanks Charles. Good morning everyone. I know you just had a very substantive discussion and I do not want to tax your brain more but I hate not to be substantive so I am going to tax it some more anyway.

MR. : Tax us, I dare you.

MS. MCCARTHY: I know that I have met many of you and it is great to be here and talking about some of the things we are doing in the Air Program; some of the accomplishments over the past few months and things that are coming up on our agenda.

But let me just tell you that I apologize that I do not have a PowerPoint presentation and there is a reason for that. It is because I never follow my talking points so it would be embarrassing to stay on the first slide and never move off of it. And that is because I have this incredible habit of beginning with my brain and then shifting to my heart and eventually returning to my brain at some point in time but